



<b>Planning Committee Date</b>	6 November 2024
<b>Report to</b>	Cambridge City Council Planning Committee
<b>Lead Officer</b>	Joanna Davies
<b>Reference</b>	24/0413/TTPO
<b>Site</b>	Sturton Street
<b>Ward / Parish</b>	Petersfield
<b>Proposal</b>	Excavate a trench to sever roots of protected trees and install a root barrier to prevent future growth in the vicinity of 193 Sturton Street
<b>Presenting Officer</b>	Joanna Davies
<b>Reason Reported to Committee</b>	Application was called in, objections to the proposed removals have been received from residents, and Friends of St Matthew's Piece. Decision was deferred at July Committee.
<b>Recommendation</b>	Grant consent subject to conditions

## 1.0 Executive Summary

- 1.1 In 2022 tree work application 22/0271/TTPO was received to reduce the height by 5m and spread by 4m of three London Plane trees located within the grounds of St Matthews Centre opposite 193 Sturton Street. This application was refused at committee because of incomplete data supporting the application, the lack of heave assessment and the lack of information regarding the installation of a root barrier.
- 1.2 In 2023 the subsequent application 23/0119/TTPO was received to fell the three London plane trees opposite 193 Sturton Street. This application was also refused at planning committee because the damage associated with the retention of the trees was not considered to outweigh their amenity value and a material loss of public amenity value, including harm to the conservation area would result from their loss.
- 1.3 The current application concerns the same three trees and the subsidence damage to 193 Sturton Street. However, following the refusal of previous applications to manage the trees above ground the current application seeks to manage the trees below ground by removing and preventing the regrowth of roots in close proximity to 193 Sturton Street. The current application was brought before members at 24 July but the decision was deferred to allow a site visit and additional questions regarding the location of the barrier to be answered.
- 1.4 Numerous objections to the trees' removals have been received from residents, and other groups but this application does not seek to remove or prune the trees.
- 1.5 As part of the previous application an independent chartered structural engineer, confirmed technical data supports a causal link between the trees and damage to the building and that the risk of heave associated with tree removal is minimal. This led to the previous decision not refuting the alleged damage, however, following 24<sup>th</sup> committee members remain unsatisfied that the level of damage requires the extent of mitigation proposed and that there is a causal link between damage and the subject trees.
- 1.6 Authorities are encouraged to bear in mind that they may be liable to pay compensation for loss or damage as a result of refusing consent or granting consent subject to conditions. Underpinning 193 Sturton Street is a likely result of refusing permission to install a root barrier. Therefore any claim for compensation would be expected to increase.
- 1.7 Members may refuse consent, grant consent unconditionally or grant consent subject to conditions/informatives. Officers' recommendation **consent is granted subject to conditions.**

## 2.0 Site Description and Context

None-relevant		Tree Preservation Order	X
Conservation Area	X	Listed Building	NA

\*X indicates relevance

- 2.1 The St Matthews Centre is located on the corner of Sturton Street and New Street within the Mill Road conservation area. The TPOd trees on the west, north and east boundaries of St Matthews Centre form part of a larger group that extends into the

adjacent St Matthews Piece, one of the three open spaces cited to have significance in the conservation area appraisal.

- 2.2 The three subject trees are located on the west boundary of St Matthew's Centre. They form part of the visually significant group that bounds the Centre and the adjacent St Matthew's Piece. The three subject trees are located within the line of 13 trees that run the full length of the combined boundary with Sturton Street.

### 3.0 Relevant Site History

Reference	Description	Outcome
22/0271/TTPO	Reduce the height of 3 London Plane trees by 5m and spread by 4m	Refused
Reference	Description	Outcome
23/0119/TTPO	Remove (fell to ground level) 3 London Plane trees	Refused

### 4.0 Legislation and Policy

- 4.1 Town and Country Planning Act 1990 Part VIII Chapter I and Town and Country Planning (Tree Preservation)(England) Regulations 2012. Tree Preservation Order number 04/2005. National Planning Policy Framework (NPPF). Planning Practice Guidance (PPG)

### 5.0 Consultations

- 5.1 The application was published on public access in addition to standard councillor and extended resident consultation. A Site Notice was issued for display. The consultation was updated to correct the description of works, which was originally validated with the inclusion of a crown reduction cited in the arboricultural report but not proposed as part of the current application.

### 6.0 Third Party Representations

- 6.1 Comments have been received from a large number of local residents, councillors and The Friends of St Matthew's Piece. These can be viewed in full via Public Access using the reference 24/0413/TTPO. Pertinent comments are consolidated and summarised in the table at Appendix 1 and a response provided.

### 7.0 Member Representations

- 7.1 The application was called in by Cllr Davey and first presented at 24<sup>th</sup> July committee.
- 7.2 Full details of all representations are available on the Council's website.

### 8.0 Assessment

#### 8.1 Planning Considerations

Amenity – Do the trees still make a significant contribution to the character and appearance of the area?

Condition/Nuisance – Are the works proposed excepted from the requirement to apply for permission in accordance with 14 and 15 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012.

Justification for Tree Works – Are there sound practical or arboricultural reasons to carry out tree works?

- i. What is the justification
- ii. Is there a financial consideration
- iii. Is there a health and safety consideration
- iv. Does the nuisance outweigh the benefit of retention

## 8.2 Officer Assessment

Amenity – St Matthew's Centre visually forms part of St Matthews Piece, one of two important open spaces with public access in the Mill Road Conservation Area. As cited in the conservation area appraisal its mature trees are important in long and short views. The trees are highlighted on the Townscape Analysis Map as Important Trees/Tree Groups. Officer opinion is that the trees have a significant amenity value.

Condition/Nuisance – Section 14.-(1)(a)(ii) of The Town and Country Planning (Tree Preservation)(England) Regulations 2012 states that nothing shall prevent the cutting down, topping, lopping or uprooting of a tree in compliance with any obligation imposed by or under an Act of Parliament or so far as may be necessary for the prevention or abatement of a nuisance. The courts have held that nuisance must be actionable in law, where it is causing, or there is an immediate risk of it causing actual damage. However, when deciding what is necessary to prevent or abate a nuisance consideration should be given to steps other than tree work.

Justification for Works – It is alleged that the trees are responsible for root induced clay shrinkage subsidence damage to 193 Sturton Street.

Submitted evidence supporting the alleged damage was reviewed by an independent structural engineer 2023 who concluded that;

- the technical site inspections are in accordance with current best practices and no further inspection methodologies would provide additional benefit to the technical assessment and conclusions.
- on the balance of probability there is a causal link between the trees, the underlying geology and damage to the building.
- the heave assessment methodologies are in accordance with current best practices in relation to tree related subsidence and
- the conclusion that the risk of heave is minimal is concurred with.

## 8.3 Observations and Implications

The Planning Practice Guidance (reference ID 36-090-20140306) states that when considering an application for consent the local authority should:

- assess the amenity value of the tree or woodland and the likely impact of the proposal on the amenity of the area;
- consider, in the light of this assessment, whether or not the proposal is justified, having regard to the reasons and additional information put forward in support of it;
- consider whether any loss or damage is likely to arise if consent is refused or granted subject to conditions;
- consider whether any requirements apply in regard to protected species;
- consider other material considerations, including development plan policies where relevant; and
- ensure that appropriate expertise informs its decision.

Officers have considered the amenity value of the trees and have concluded that their amenity value is significant. In this regard officers note that the trees are in a conservation area and give very considerable importance and weight to the contribution that the amenity value of the trees makes to the character and appearance of the conservation area. Officers have taken into account section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requiring it to pay special attention to the desirability of preserving or enhancing the character and appearance of that area. The relevant policies in the Council's adopted development plan are 14, 55, 59, 61, 67, 69 and 71, which seek to protect amenity to which the trees contribute in terms of, history, character and appearance and in terms of ecology/biodiversity and other environmental considerations. Taking all of the above into account, officers believe that the amenity value of the trees is high and carries substantial weight.

However, the tree team is satisfied that evidence demonstrates on the balance of probability that there is a causal relationship between the trees and the damage to the subject property and level monitoring indicated continued movement to foundations, leading to ongoing damage. The work proposed will remove the trees' influence on soil moisture beneath the subject property's foundations allowing the property to stabilise and superstructure repairs to be carried out. The tree team is of the view that the works for which consent is sought is justified.

Installing a root barrier is one alternative to tree removal or crown management, which has been refused in the past following previous applications, but installing a root barrier is a more costly solution. The cost of installing a root barrier has been estimated to be in the region of £80,000. The other alternative to tree loss/management is underpinning. Underpinning the property would allow for future changes in soil volume without additional damage to the building. The cost of underpinning has been estimated at £120,000. In the event that this application is refused, it is expected that 193 Sturton Street would be underpinned at the greater cost, a cost that could be claimed from the council. The council has been put on notice of the intention to pursue a compensation claim for the costs of installing a root barrier following the refusal of application 23/0119/TTPO. See appendix 5.

Installing a roots barrier is an accepted alternative to tree loss/crown management and a solution that the council has effected previously to mitigate tree related subsidence caused by its own trees in Alexander Gardens.

Planning Practice Guidance (PPG) is clear that in taking a decision on an application for consent to carry out works to a protected tree, authorities should bear in mind that they may be liable to pay compensation for loss or damage as a result of refusing

consent or granting consent subject to conditions, but that where the authority believes that some loss or damage is foreseeable, it should not grant consent automatically, but should take this factor into account alongside other key considerations, such as the amenity value of the tree and the justification for the proposed works before reaching its final decision.

The application does not require any crown management therefore will not result in a loss of amenity value. As it is accepted that on the balance of probabilities there is a causal link between the damage to 193 Sturton Street and the trees, and the alternative to the root barrier would be underpinning at an increased cost, refusal is not recommended by officers.

However, when we consider amenity we must also consider the long term impact of the proposed on tree health and therefore future amenity value. The proposed root barrier will be installed between 193 Sturton Street and the subject trees at a distance, originally stated in the method statement submitted by the applicant, of 7m from the trees. While this is within the root protection area (RPA) of the trees as calculated using the British Standard 5837 2012 Trees in relation to design, demolition and construction – Recommendations, the RPA is not the extent of a tree's root system and additional rooting volume outside the RPA is available to the trees to compensate for the loss of roots caused by the installation of the root barrier in the road. Notwithstanding this, additional information has been received from the applicant in answer to specific questions raised at previous planning committee regarding the location of the barrier. Firstly, the building requires solid ground for support and opening up a trench adjacent to the foundation will increase the risk of trench collapse and additional damage to the building. Secondly, a gutter drain is connected to drains/sewer preventing excavation along the gutter without damage to underground assets. Thirdly, the original proposed location followed a desk study, further consideration of the area suggests that the trench would be located approximately 9 metres from the trees, subject to further ground surveys, as indicated below in an image provided by the applicant.



With regard to the impact of works on tree health, consideration has also been given to the species tolerance to construction activity and root loss. Plane trees have a high tolerance to construction activity therefore the works that might cause significant damage to some tree species have a minimal impact on plane. This does not suggest that the proposed work is not without risk. However, with consideration of the impact tree roots are having on soil moisture beneath the foundations of 193 Sturton Street, the greater impact alternative methods of controlling root growth (pruning/felling) would have on amenity, the increased cost of underpinning the property and potential increased cost of any associated claim against the council following a refusal and the species tolerance of construction pressures, provided the location of the barrier is controlled through condition and the works are carried out in accordance with best practice, the risk of material harm to the trees is considered to be acceptable.

## 9.0 Conclusion

The application is required to allow the council to consider justification for the works proposed and balance this against the impact on public amenity. The justification is continued movement of the foundations of 193 Sturton Street resulting from tree related moisture loss. As the proposal will have no impact on trees above ground their amenity value will be unchanged. The application is considered by officers to be justified therefore and a recommendation to grant consent made, subject to standard conditions, limiting the proximity of the barrier to the trees and ensuring works are carried out in accordance with best practice.

## 10.0 Recommendation

1. Grant consent subject to conditions controlling the location of the barriers and installation in accordance with best practice.
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### Background Papers:

The following list contains links to the documents on the Council's website.

- [Historic 22/0271/TTPO 22/0271/TTPO | T1, T2 & T3: London Plane - Reduce height by ~5m and spread by ~4m balancing crown of all 3 trees. Prune on a triennial cycle to maintain broadly at reduced dimensions. | St Matthews Centre and St Matthews Piece Sturton Street Cambridge Cambridgeshire CB1 2QF \(greatercambridgeplanning.org\)](#)
- [Historic 23/0119/TTPO 23/0119/TTPO | T1 London Plane of the Crawford's Addendum Report - Arboricultural Recommendations Works: Remove \(fell\) to ground level and treat stumps to prevent regrowth. T2 London Plane of the Crawford's Addendum Report - Arboricultural Recommendations Works: Remove \(fell\) to ground level and treat stumps to prevent regrowth. T3 London Plane of the Crawford's Addendum Report - Arboricultural Recommendations Works: Remove \(fell\) to ground level and treat stumps to prevent regrowth. Reason: Clay shrinkage subsidence damage at 193 Sturton Street, CB1 2QH | St Matthews Centre Sturton Street Cambridge Cambridgeshire CB1 2QF \(greatercambridgeplanning.org\)](#)
- [24/0413/TTPO | The works involve digging a trench to severe roots of protected trees, the trees are as described in the arb report. The trench is as described in the method statement in terms of its length, depth and location. The reason for the works is the tree-related subsidence to the property. | 193 Sturton Street Cambridge Cambridgeshire CB1 2QH \(greatercambridgeplanning.org\)](#)

### Appendices:

Appendix 1 Consultee Comments  
Appendix 2 Response Friends of St Matthews Piece Objection  
Appendix 3 Location Plan  
Appendix 4 TPO Plan  
Appendix 5 Letter of Intention



## Appendix 1

Consultee comments have been summarised and consolidated.

Comment	Officer Response
Threats to the trees have previously been dismissed	The decision on 23/0119/TTPO accepts a causal link between the trees and damage to the property but determined that the proposed removal of the trees was a disproportionate response given the detriment to amenity that would have arisen and alternatives that are available
The proposed root pruning would kill or seriously damage trees T1, T2 and T3 and an additional tree immediately to the south	Plane trees are tolerant of construction pressure and sufficient critical rooting volume is expected to remain to sustain overall tree health
It is technically unsupported that the trees are causing damage 193 Sturton Street	Following assessment of evidence supporting the claim that trees are a contributing factor to damage, an independent structural engineer concluded that technical site inspections are in accordance with current best practices and no further inspection methodologies would provide additional benefit to the technical assessment and conclusions and that on balance there is a casual link between the trees, the underlying geology, and the damage to the building.
Loss of amenity	The proposal seeks permission to install a root barrier, no work is proposed to tree canopies.
Barrier is proposed only 5m from trees and within the RPA	The submitted methodology proposes the barrier 7m from the trees, this can be conditioned in any approval.
The necessary root pruning will destabilise the trees and cause the canopy to die-back	At 5 or 7 metres stability roots would be unaffected. Sufficient critical rooting volume would remain to sustain overall tree health
Petersfield has poor tree cover and every tree matters	The proposal seeks to retain the trees without management
Limited public consultation	Interested parties are encouraged to register on public access to ensure they are consulted on relevant applications. There are no legal requirements for a council to consult on tree work applications therefore the extent of consultation is not a reason for refusal.

<p>No planning application has been submitted to prune roots of the tree south of T1</p>	<p>The application is to install a root barrier. As part of the council's assessment consideration is given to the impact on all protected trees.</p>
<p>The uptake of water and mineral nutrients by the root system takes place via the fine non-woody roots (typically less than 0.5 mm diameter) and associated beneficial fungi (mycorrhizae). Their survival and functioning are essential for the health of the trees. Also the fine, hair-like root tips of trees join together with microscopic fungal filaments to form the basic links of an underground network.</p>	<p>Subject to suitable protection and excavation/pruning techniques the installation of a root barrier to one side of the trees is expected to have no material impact on the overall health of individuals or the remainder of the group.</p>
<p>Lowering water table is most likely cause of moisture reduction in soil below foundations.</p>	<p>Submitted evidence supports the claim of tree related moisture loss.</p>
<p>TPO implies a presumption against removal</p>	<p>A TPO is served to prevent unjustified and harmful works to trees of value.</p>
<p>The works would breach Local Plan Policies 14, 23, 55, 56, 61, 67 and 71 and National Planning Policy Framework sections 91, 92 and 96.</p>	<p>The Council is obliged to consider the merits of any tree work application in accordance with The Town and Country Planning Act 1990 and the 2012 Regulations (The Act). While the principles of relevant policies in the Council's adopted development plan forms part of the assessment they do not outweigh the responsibilities placed on councils under The Act. The council must therefore determine whether or not sufficient justification has been submitted to permit consent for works that will result in the loss of trees of value.</p> <p>As the current application does not include crown management the amenity value of the trees is preserved.</p>

## Appendix 2

Responses to Friends of St Matthews Piece Objection and Supplementary objection to 24/0413/TTPO. Numbers relate to the pertinent sections of the objections which are too extensive to include as an appendix but can be located on the council's web site or copies obtained from the case officer.

### Objection

#### 2.1 What is the crucial guidance?

*The crucial guidance on tree work application decision making is Planning Practice Guidance Tree Preservation Orders and trees in conservation areas. BS 5837 is a British Standards Publication that gives recommendations and guidance on the relationship between trees and design, demolition and construction processes. It sets out the principles and procedures to be applied to achieve a harmonious and sustainable relationship between trees and structures. While elements of BS 5837 mirror pertinent considerations when assessing tree work applications, its primary purpose is to aid the appropriate consideration of trees in relation to development. In this regard, BS5837 was pertinent to the cited Westminster appeal referenced APP/ X5990/ V/ 19/ 3240661.*

#### 2.2.1 T1, T2 & T3 are Category A trees

*The amenity value of the trees is not contested. Whether utilising TEMPO (tree evaluation method for preservation orders, Helliwell (an economic asset tree valuation method), CAVAT (capital asset value for amenity trees) or BS5837 their value is significant.*

#### 2.2.2 and 2.3 A tree's Root Protection Area (RPA) and its fundamental importance in BS 5837:2012

*A tree's critical rooting volume is of fundamental importance not just in BS 5837 but when considering any excavation or other potentially harmful activity in the vicinity of trees. Also of fundamental importance is a tree's tolerance to root pruning/disturbance. As cited at 1.8.1 of Appendix 3 of the objection London Plane is one of the few tree species capable of surviving and thriving in densely built urban environments and tolerating high levels of atmospheric pollution. In addition to its tolerance to pollution London Plane has a high tolerance to pruning and other construction pressures.*

*While represented as an area the RPA is actually a volume of soil that assumes a typical rooting depth of one metre. However, trees grow entirely in response to their surroundings and where rooting volume is restricted will grow to greater depths. Given the confines associated with manmade structures in the nominal RPA of the trees and moisture loss at depth beneath the foundations of 193 Sturton Street, it is clear that they are utilising soil at a greater depth than one metre. Therefore calculating a reduction in critical rooting volume based on area and not volume will not give results representational of the actual site conditions. In addition the RPA is not the extent of the root system, therefore, and within reason, the RPA can be adjusted in shape without reducing the volume because a tree is utilising rooting area located beyond or below the nominal RPA.*

#### 2.4 The further impact of 24/0413/TTPO on the RPAs of T1, T2 & T3

*Submitted plans are not to scale and are indicative. The accurate location of trees is not required in a tree work application. It must however be clear to which trees the application relates. The precise location of the barrier has not been provided in plan form and will*

*depend on site conditions currently unknown. The location specified is 7m between trees and barrier. This can be conditioned.*

### 3.0 Is there a valid case for these works?

*The applicant has not provided additional evidence to support the subsidence claim. However officers remain satisfied that evidence provided in previous applications, and supported by an independent chartered structural engineer, demonstrates on the balance of probability that there is a causal relationship between the trees and the damage to the subject property. The previous application to fell the trees was refused because the damage associated with the retention of the trees was not considered to outweigh their amenity value. It was not refused because of lack of evidence to support the claim, unlike the previous applications, which did lack evidence.*

*The current application seeks to preserve amenity value by retaining the trees and installing a root barrier to remove the trees' influence on soil moisture beneath the subject property's foundations allowing the property to stabilise and superstructure repairs to be carried out.*

## Supplementary Objection

### 1.0 RPAs – Sacrosanct under BS 5837

*As previously explained, the primary purpose of BS 5837 is to aid the appropriate consideration of trees in relation to proposed development. Notwithstanding this BS 5837 is a set of recommendations aimed to guide the user. It should not be quoted as if it were a specification and particular care should be taken in relation to claims of compliance and non-compliance.*

*While an assessment of the impact of the root barrier on tree health by the applicant might have been helpful, the applicant is not required to make reference to BS 5837.*

### 2.0 Which RPAs would 24/0413/TTPO damage?

*As part of their assessment officers have considered the impact of the proposed on all protected trees. Given the open nature of the land to the west of the tree to south of T1 and its greater distance to the property the overall impact on the tree's rooting volume is considered to be negligible.*

### 3.0 Reminder of the Significance of St Matthew's Piece's Trees

*The amenity value of the trees is not contested. Officers believe that the amenity value of the trees is significant and that this should carry substantial weight.*